

INITIAL STATEMENT OF REASONS

- a) Specific Purpose of the Regulations and Factual Basis for Determination that Regulations Are Necessary

Section 87211(d) and Handbook

Specific Purpose:

This regulation and handbook reference are adopted for clarity and consistency and to align with the financial distress reporting and notification requirements specified in Health and Safety Code (HSC) section 1569.686(a); allow the California Department of Social Services (CDSS) to levy civil penalties as specified in HSC section 1569.686(c); or take other appropriate action for failure to report specified events per HSC section 1569.686(b). The HSC section 1569.686 was added to statute as a result of Senate Bill (SB) 897 (Chapter 376, Statutes of 2011).

Factual Basis:

It is necessary to adopt this regulation and handbook reference in order to implement SB 897 (Chapter 376, Statutes of 2011) and necessary for consistency with HSC section 1569.686(a). The statute requires that a licensee notify specified parties in writing if the licensee experiences any of the specified financial distress events. The statute specifies the parties to be notified; the timeframe in which to notify; and the financial distress events to be reported. In addition, HSC section 1569.686(c) specifies that the CDSS may levy a civil penalty for failure by the licensee to report financial distress events or take other appropriate action as per HSC section 1569.686(b).

Section 87211(d)(1)

Specific Purpose:

This regulation is adopted for clarity and consistency and to align with the financial distress notification requirements to potential residents specified in HSC section 1569.686(a).

Factual Basis:

It is necessary to adopt this regulation in order to implement SB 897 (Chapter 376, Statutes of 2011) and necessary for consistency with HSC section 1569.686(a). The statute specifies that licensees are to disclose in writing to any potential residents prior to admission any of the specified financial distress events. This regulation seeks to provide further clarification that notification to the potential resident or their representative shall be no later than prior to the resident or their representative signing the admission agreement.

Section 87211(e)

Specific Purpose:

This regulation is adopted for clarity and consistency with HSC section 1569.686(b). Upon notification by licensee of specified financial distress event(s), CDSS shall take appropriate action in response to the event(s) reported.

Factual Basis:

It is necessary to adopt this regulation in order to implement the provisions of SB 897 (Chapter 376, Statutes of 2011). The HSC section 1569.686(b) requires that at the time that the Department is notified by the licensee of financial distress events, CDSS is required to initiate corrective action through compliance plans, noncompliance conferences or other action deemed appropriate by CDSS. It is incumbent upon CDSS to take such action in order to protect the health and welfare of the residents in care; allow for the opportunity to research alternative placement; and prepare residents for possible relocation. Should CDSS become aware of the occurrence of any of the specified events in HSC section 1569.686(a) without notification from the licensee within the timeframe specified, CDSS may take appropriate action against the licensee including the issuance of the civil penalty specified in HSC section 1569.686(c).

Section 87211(f)

Specific Purpose/Factual Basis:

This amendment is for the purposes of clarity and consistency in the renumbering of Section 87211(d) to 87211(f).

Section 87211(g)

Specific Purpose/ Factual Basis:

This amendment is for the purposes of clarity and consistency in the renumbering of Section 87211(e) to 87211(g).

b) Identification of Documents Upon Which Department Is Relying

SB 897, Chapter 376, Statutes of 2011

HSC section 1569.686

c) Local Mandate Statement

These regulations do not impose a mandate upon local agencies and school districts for certain costs mandated by the State. There are no reimbursable state-mandated costs under Section 17500 et seq., of the Government Code.

d) Statement of Alternatives Considered

In developing the regulatory action, CDSS did not consider any other alternatives than the one proposed because this was the most effective. No reasonable alternative has been presented for review.

The CDSS must determine that no reasonable alternative considered or that has otherwise been identified and brought to the attention of CDSS would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective as and less burdensome to affected private persons than the proposed action or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

e) Statement of Significant Adverse Economic Impact On Business

The CDSS has not received any facts, evidence, documents, testimony or other evidence to indicate there has been any significant, statewide adverse economic impact on business related to these laws. In addition, the proposed regulations are implementing state law. If there were to be any adverse economic impact on business, it would be a result of the passage of the enacting laws, not the regulations themselves. As such, CDSS has made an initial determination that the proposed action will not have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

f) Economic Impact Assessment

The adoption of the proposed amendments will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

The Creation or Elimination of Jobs Within the State of California

The proposed regulation conforms to SB 897 (Chapter 376, Statutes of 2011). The proposed regulation is implementing state law. If there were to be any impact on the creation or elimination of jobs within the State of California, it would be a result of the passage of the enacting law, not the regulation. Therefore, the Department has determined that this regulatory proposal will not have an impact on the creation or elimination of jobs in the State of California.

The Creation of New Businesses or the Elimination of Existing Businesses Within the State of California

The proposed regulation conforms to SB 897 (Chapter 376, Statutes of 2011). The proposed regulation is implementing state law. If there were to be any impact on the creation of new businesses or the elimination of existing businesses within the State of California, it would be a result of the passage of the enacting law, not the regulation. Therefore, the Department has determined that this regulatory proposal will not have an impact on the creation or elimination of existing businesses within the State of California.

The Expansion of Businesses Currently Doing Business Within the State of California

The proposed regulation conforms to SB 897 (Chapter 376, Statutes of 2011). The proposed regulation is implementing state law. If there were to be any impact on the expansion of businesses currently doing business within the State of California, it would be a result of the passage of the enacting law, not the regulation. Therefore, the Department has determined that this regulatory proposal will not have an impact on the expansion of businesses currently doing business within the State of California.

Benefits of the Regulations to the Health and Welfare of California Residents, Worker Safety and the State's Environment

The benefits of the regulatory action to the health and welfare of California residents, worker safety and the state's environment are as follows: 1) enable the Department to address any quality of care issues that could arise in a Residential Care Facility for the Elderly (RCFE) experiencing financial distress; and 2) provide advance notice to the Department, residents and families of any financial distress events, thereby allowing for the opportunity to research alternative placement and prepare for possible relocation. This regulatory action provides protection to the health and safety of RCFE residents and prospective residents from any actions by RCFE licensees caused by financial distress.

The following documents were relied upon in proposing the regulatory action:

SB 897 (Chapter 376, Statutes of 2011) and HSC section 1569.686.

g) Benefits Anticipated from Regulatory Action

The proposed regulations will assist the Department in protecting resident health and safety by addressing any quality of care issues that could arise in an RCFE experiencing financial distress as exhibited by the occurrence of any of the specified events. These events could signify inadequate resources and/or appropriate staffing levels to provide care and supervision to residents. These regulations will benefit residents and their families by providing advance notice of any financial distress events, thereby allowing for the opportunity to research alternative placement and prepare residents for possible relocation. The promulgation of these regulations is necessary to carry out the Community Care Licensing Division's core function of protecting the health and safety of vulnerable elderly population in licensed residential care.

h) Statement of Specific Technology or Equipment

This regulatory action will not mandate the use of new, specific technologies or equipment.